

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

JAMES NEWTON, II,)	
)	
Plaintiff,)	8:06CV242
)	
vs.)	ORDER
)	
STANDARD CANDY COMPANY, INC.,)	
)	
Defendant.)	

This matter is before the court on the defendant's Motion for Extension of Time to File Motion for Summary Judgment ([Filing No. 120](#)). The defendant filed a brief ([Filing No. 121](#)) in support of the motion. The plaintiff did not file any opposition.

The defendant seeks leave to file a motion for summary judgment, out of time. Originally, the deadline for filing motions for summary judgment was June 1, 2007. **See** [Filing No. 40](#), ¶ 5. The defendant filed a timely motion for summary judgment, which was subsequently denied. **See** Filing Nos. [49](#), [115](#). In the meantime, the plaintiff filed successive amended complaints, with leave of court. **See** Filing Nos. [85](#), [86](#), [100](#). The latest amended complaint was filed on November 15, 2007. **See** [Filing No. 101](#). The defendant seeks to file a another motion for summary judgment to address claims and issues which were raised for the first time in the amended complaints. The trial has been continued and is currently scheduled for October 20, 2008. **See** [Filing No. 119](#).

The court finds good cause exists for extending the deadline for filing motions for summary judgment. **See** [Fed. R. Civ. P. 6\(b\)\(1\)](#). The defendant could not have timely filed a motion for summary judgment addressing the issues which were raised after the deadline had expired. Additionally, although the defendant waited until after the court ruled on the earlier filed motion for summary judgment to file the instant motion, no undue prejudice or delay will result from allowing the defendant a short time to file another motion for summary judgment. Upon consideration,

IT IS ORDERED:

1. The defendant's Motion for Extension of Time to File Motion for Summary Judgment ([Filing No. 120](#)) is granted.

2. The defendant shall have to **on or before June 9, 2008**, to file a motion for summary judgment.

DATED this 21st day of May, 2008.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge